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WASHINGTON, DC 20006

August 12, 2019

**SUBMITTED ELECTRONICALLY VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Meeting Summary per Section 1.1208 of the FCC's Rules  
Schools and Libraries Universal Service Support Mechanism, Docket No. 02-6

Dear Ms. Dortch:

On behalf of Merit Network, Inc. ("Merit"), this summary memorializes a meeting between representatives of Merit and Commission staff. On August 8, 2019, Charlotte Bewersdorff, Vice President of Member Engagement and Marketing for Merit; Kathy Micheli, Controller and Director of Financial Services for Merit; and Gina Spade, counsel for Merit; spoke with Gabriela Gross and Kate Dumouchel of the Telecommunications Access Policy Division of the Wireline Competition Bureau regarding a request for waiver submitted by Merit.<sup>1</sup>

We discussed the facts and arguments identified in Merit's appeal and that Merit's request was consistent with Commission precedent and was in the public interest. Merit asked that the waiver be granted in a monthly public notice as soon as possible.

Pursuant to Section 1.1208 of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced docket and courtesy copies are being sent to the attendees. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "Gina Spade".

Gina Spade  
Broadband Legal Strategies

*Counsel for Merit Network, Inc.*

cc: Gabriela Gross, TAPD, WCB  
Kate Dumouchel, TAPD, WCB

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<sup>1</sup> Request for Waiver, *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Merit Network, Inc. (filed December 21, 2018).

**Merit Network, Inc.**  
**Waiver Request Qualifies for Relief**  
**Under the *Jefferson-Madison Regional Library Order***

**Overview:** Non-profit Merit Network, Inc. (Merit) requests a waiver of the invoicing deadline rule to resubmit its invoice for E-rate services it provided to the Detroit Public Library. USAC denied Merit's invoice as untimely because the Library's application lacked certain information and USAC's EPC portal delayed the correction of this information. Similar to the Bureau's findings in the *Jefferson-Madison Regional Library Order*, a waiver is appropriate because Merit's invoice was denied for circumstances beyond its control and for which Merit should not be penalized.

**Background:** In Funding Year 2016, the Detroit Public Library requested funding for E-rate supported services and selected Merit as its service provider. USAC issued the funding commitment decision letter, approving more than \$600,000 in funding for the Library. Services were provided and Merit timely submitted its invoice to USAC in January 2017.

In April 2017, USAC paid Merit a portion of the total invoiced amount. USAC denied paying the invoice in full because the Library failed to list all of its branch locations on its FCC Form 471. The Library worked with USAC to correct its Form 471, including addressing systematic problems with the EPC portal.

In the meantime, Merit requested and received an extension of the invoicing deadline. At some point, the Library's form was corrected to include all branch locations. However, there was an issue with EPC that needed to be corrected as well. Once the corrections were made, neither USAC nor the Library informed Merit that the Library's form had been corrected. On the same day Merit finally learned of the correction, it resubmitted its invoice, but USAC denied the invoice because the extended invoicing deadline had passed. Merit now requests a waiver of the invoicing deadline rule so it may resubmit its invoice and be reimbursed for services already provided.

- **Merit Network's Waiver Request is Consistent with Commission Policy Under the *Jefferson-Madison Regional Library Order*.**
  - In the *Jefferson-Madison Regional Library Order*, the Bureau reversed USAC's decision to reject a timely filed invoice when the service provider had not certified the invoice prior to the invoice filing deadline. The Bureau found that the applicants had adhered to the E-rate program rules and timely filed their invoices. The Bureau noted the invoices only lacked the service provider's certification, but it found that the rule only required that the invoice, not the certification, be filed prior to the deadline.
  - Similarly, here, Merit timely filed its invoice and even extended the deadline in a timely fashion.
  - Just as in the *Jefferson-Madison Regional Library Order*, the only information missing to process the invoice was from the other party, the Library. As the Bureau found in that order, Merit should not be punished for an error or oversight by a third party: the Library's inadvertent omission of some of its branch locations on its Form 471.

- **Merit Network's Waiver Request is in the Public Interest.**
  - Merit did nothing wrong, and it followed the program rules as required. It is contrary to the public interest to penalize Merit for an invoicing delay beyond its control. Merit did everything it could have and it is owed more than \$400,000 for the services it provided.
  - Additionally, Merit should not be denied reimbursement when a USAC system problem delayed the correction of the Library's application. From Merit's understanding, the issue was still *not* resolved as of February 1, 2018 – only a few weeks before the invoice extension deadline at the end of the month.
  - Merit resubmitted its invoice *the same day* it found out that the FCC Form 471 had been corrected.
  - We are seeking a waiver from the Commission because USAC cannot correct this issue once the extension deadline has passed.